



*VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY*

NORTHERN REGIONAL OFFICE  
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**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
LCVA Holdings LLC  
FOR  
Chantilly Place - STP  
VPDES Permit No. VAG406575**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and LCVA Holdings LLC, regarding the Chantilly Place – STP facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “305(b) report” means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Facility" or "Plant" means the Chantilly Place – STP located at 43112 John Mosby Highway, Chantilly, Virginia 20152, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of LCVA Holdings LLC.
9. "LCVA Holdings LLC" means LCVA Holdings LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. LCVA Holdings LLC is a "person" within the meaning of Va. Code § 62.1-44.3.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES Permit No. VAG40, which was issued under the State Water Control Law and the Regulation on August 2, 2016, and which expires on August 1, 2021. LCVA Holdings LLC applied for, and was granted, coverage under this Permit for the Chantilly Place – STP under Permit Registration number VAG406575.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
16. "Regulation" means the VPDES General Permit for Domestic Sewage Discharges of Less Than or Equal To 1,000 Gallons Per Day, 9VAC25-110-10 *et seq.*
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
19. "STP" means sewage treatment plant.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. LCVA Holdings LLC owns and operates the Plant. The Permit allows LCVA Holdings LLC to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of Ellick Run, in strict compliance with the terms and conditions of the Permit.

2. Elklick Run is located in the Potomac River Basin. Elklick Run is listed in DEQ's 305(b) report as impaired for aquatic life use, according to benthic macroinvertebrate bioassessment, and recreational use, due to bacteria.
3. DMRs and maintenance logs for the Plant are required to be submitted annually. The annual DMR and maintenance log for the September 1, 2016, through August 31, 2017, monitoring period was due on September 10, 2017, and was not received by DEQ until October 2, 2017. Additionally, the late DMR lacked data on the minimum pH parameter.
4. The annual DMR and maintenance log for the September 1, 2017, through August 31, 2018, monitoring period was due to be submitted by September 10, 2018, and was not received by DEQ.
5. The annual DMR and maintenance log for the September 1, 2018, through August 31, 2019, monitoring period was due to be submitted by September 10, 2019, and was not received by DEQ.
6. The annual DMR and maintenance log for the September 1, 2019, through August 31, 2020, monitoring period was due to be submitted by September 10, 2020, as was not received by DEQ.
7. Permit Condition Part I.A.1 states in part, "During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters. The discharge shall be limited and monitored by the permittee as specified [in the table] below."
8. Permit Condition Part I.D.2.b.(4) states in part, "The permittee shall keep a log of all maintenance performed on the treatment works including, but not limited to the following: (a) The date and amount of disinfection chemicals added to the chlorinator. (b) If dechlorination is used, the date and amount of any dechlorination chemicals that are added. (c) The date and time of equipment failure and the date and time the equipment was restored to service. (d) The date and approximate volume of sludge removed. (e) Dated receipts for chemicals purchased, equipment purchased, and maintenance performed."
9. Permit Condition Part I.A.2 states, "All monitoring data required by Part I.A.1 shall be maintained on site in accordance with Part II.B. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the 10<sup>th</sup> of September following the monitoring period. The monitoring period is September 1 through August 31. A copy of the maintenance log required by Part I.D.2.B.(4) shall also be submitted with the DMR."
10. NRO issued Warning Letters and a Notice of Violation for the late and missing DMRs and maintenance logs exceedances as follows:

- a. WL No. W2020-05-N-1017, issued May 13, 2020;
  - b. WL No. W2018-10-N-1034, issued October 19, 2018;
  - c. WL No. W2019-10-N-1006, issued October 23, 2019; and
  - d. NOV No. W2020-10-N-0015, issued October 16, 2020.
11. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
  12. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
  13. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
  14. The Department has issued no permits or certificates to LCVA Holdings LLC other than VPDES Permit No. VAG406575.
  15. Ellick Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
  16. Based on the results of DEQ file review, the Board concludes that LCVA Holdings LLC has violated the Permit and 9 VAC 25-110-10 *et seq.*, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(1) through C(15), above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders LCVA Holdings LLC, and LCVA Holdings LLC agrees to pay a civil charge of \$5,136 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

LCVA Holdings LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the

Department of Law, LCVA Holdings LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of LCVA Holdings LLC for good cause shown by LCVA Holdings LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, LCVA Holdings LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. LCVA Holdings LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. LCVA Holdings LLC declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by LCVA Holdings LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. LCVA Holdings LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. LCVA Holdings LLC

shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. LCVA Holdings LLC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and LCVA Holdings LLC. Nevertheless, LCVA Holdings LLC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after LCVA Holdings LLC has completed all of the requirements of the Order;
  - b. LCVA Holdings LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to LCVA Holdings LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve LCVA Holdings LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by LCVA Holdings LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of LCVA Holdings LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind LCVA Holdings LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of LCVA Holdings LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, LCVA Holdings LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8<sup>th</sup> day of April, 2021.



Thomas A. Faha, Regional Director  
Department of Environmental Quality

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LCVA Holdings LLC voluntarily agrees to the issuance of this Order.

Date: 2/1/21 By: James Kontzamanys, MEMBER  
(Person) (Title)  
LCVA Holdings LLC

Commonwealth of Virginia  
City/County of Prince William

The foregoing document was signed and acknowledged before me this 1st day of  
February, 2021, by JAMES KONTZAMANYS who is  
a member of LCVA Holdings LLC, on behalf of the company.

Fresha Ahmad  
Notary Public

7849342  
Registration No.

My commission expires: 06-30-2023

Notary seal:

